

Coram: S.K.Keshote, J.  
( 08th January 1996 )

Order

Heard Shri P.B.Majmudar for the petitioner. None present for the respondents.

2. The petitioner seeks relief for issuing a writ of mandamus to the respondents to the effect that they may be directed to count the past services of the petitioner which he rendered to the Agricultural Produce Market Committee at Derol from 22.2.1952 to 16.6.1961 for the purpose of pension and other retirement benefits. Earlier also, the petitioner approached this Court but that writ petition has been withdrawn by the petitioner with a liberty to file his representation to the respondents. The petitioner filed his representation, but that has been dismissed by the respondents vide its order dated 6.5.1994. The respondents have given out the reasons in its order dated 6.5.1994 for not counting of the services of the petitioner for the aforesaid period that there is no provision to count such services for the purpose of pension and other retirement benefits. It is not in dispute that the petitioner was appointed in the government service. It is not the case of the petitioner that he has taken the appointment with a specific condition that the past services which he rendered as a clerk in the office of the Sub-Market Yard, Agricultural Produce Market Committee at Derol from 22.2.1952 to 16.6.1991 shall be counted for the purpose of pension etc. It is also not the case of the petitioner that while giving appointment to the petitioner in the government service the employer has given any assurance or any promise to him to count his past services for pension and other retirement benefits. Above all, the petitioner, after taking the employment in the government service, did not raise any voice whatsoever to count his past services for pension and other retirement benefits. Only when he attained his superannuation and retired on 31.5.1989 he started to make claim for counting of his past services with the Agricultural Produce Market Committee at Derol for the purpose of pension and retirement benefits.

3. During the course of argument, when the Court has put a query to the petitioner as to under which rule,

regulation or circular of the government such services are countable for pension and retirement benefits, the learned Counsel for the petitioner failed to point out any such rule, regulation or circular. In view of this fact, there is nothing wrong in the order of the respondent dated 6.5.1994 and the respondent has rightly held that there is no provision for counting of such past services of the petitioner which he rendered to the Agricultural Produce Market Committee for the purpose of pension and retirement benefits while retiring from the government service. During the course of argument, the petitioner though referred and relied on Government Resolution dated 14.12.1989. It is a xerox copy and even it does not contain signature of any of the authorities of the government. A copy of this Resolution was ordered to be given to the Counsel for the respondents and none is present on behalf of the respondents to controvert the correctness of this Resolution. In view of these facts, I have taken into consideration the aforesaid Resolution. I have gone through the contents thereof. I am satisfied that it is not helpful to the petitioner in any manner whatsoever. The Preamble of the Resolution gives out that the Government of India had sent a proposal to the State of Gujarat regarding counting of services, for the purpose of pension, of employees of Central Government and Central Autonomous Bodies seeking absorption in the Public Sector Undertakings and Autonomous Bodies under the State Government and vice versa. This proposal of the Government of India has been accepted by the Government of Gujarat and the Resolution has been taken out accordingly. The Resolution reads as under:

" The Government is pleased to direct that the employees of the State Government/ State Autonomous Bodies/ State Statutory Bodies, seeking absorption Central Government/ Central Autonomous Bodies/ Statutory Bodies where they are presently working or vice versa should be allowed the retirement benefits, subject to conditions laid down in the Office Memorandum, Government of India No.28/10/84/Pension Unit dated the 29th August 1984."

4. The State Government has resolved that the employees of the State Government/ State Autonomous Bodies/ State Statutory Bodies, seeking absorption in Central Government/ Central Autonomous Bodies/ Central Statutory Bodies where they are presently working or vice versa should be allowed their retirement benefits, subject to the conditions laid down in Office Memorandum of Government of India No.28/10/84/ Pension Unit dated

29.8.1984. In other words, services of such employees may be allowed to be counted towards pension. A careful reading of the aforesaid Resolution leaves no doubt whatsoever that it is only applicable to the employees of the Central Government/ Central Autonomous Bodies/ Central Statutory Bodies seeking absorption in the State Government service. The absorption itself has a definite meaning, purpose and object. The question of absorption will arise only when an employee of the Central Government or a Central Autonomous Body or a Central Statutory Body are working on deputation with the State Government or a State Autonomous Body or a State Statutory Body. Leaving apart the question that the petitioner was not an employee of the Central Government or a Central Autonomous Body or a Central Statutory Body, it is not the case of the petitioner that he was on deputation from the Agricultural Produce Market Committee at Derol to the State Government. It is the case where the petitioner for his future prospects himself has taken a fresh appointment as a clerk in the office of the Director of Printing and Stationery at Gandhinagar. When the petitioner himself has got a fresh appointment in government service for his own benefits and betterments, it is not open to him to pray for counting of his past services. The past services could have been counted only in cases it is the condition of such appointment or when some rule, regulation or resolution of the government stipulates such condition. The petitioner has not produced the order of his appointment as a clerk in the office of the Director of Printing and Stationery at Gandhinagar.

5. In view of these facts and circumstances of the present case and also when there is no specific rule, regulation or circular of the government to count the past services which the petitioner has rendered to the Agricultural Produce Committee earlier to his appointment as a clerk in the office of the Director of Printing and Stationery, I do not find any substance in this writ petition. No legal right whatsoever is accrued to the petitioner which can be said to be infringed by the State. The Resolution dated 14.12.1989 is of no value whatsoever to the petitioner .

6. In the result, this writ petition fails. It is dismissed. Rule is discharged.

